

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JESSE ARON ROSS,

Plaintiff,

vs.

AMY KRUEGER, *et al.*,

Defendant.

Case No.: 2:13-cv-00355-GMN-VCF

**ORDER ACCEPTING REPORT &
RECOMMENDATION OF MAGISTRATE
JUDGE FERENBACH**

Before the Court for consideration is the Report and Recommendation (ECF No. 112) of the Honorable Cam Ferenbach, United States Magistrate Judge, entered June 22, 2015.

This action involves various constitutional rights violations allegedly suffered by Plaintiff Jesse Aron Ross, proceeding *pro se*, while he was an inmate at Nye County Detention Center. On March 31, 2015, this Court entered an Order (ECF No. 103) granting in part and denying in part the Motion for Summary Judgment (ECF No. 82) filed by Defendants. In pertinent part, the Order denied Defendants' request for summary judgment on Plaintiff's *Monell* claims under a qualified immunity defense. Defendants subsequently appealed the denial of their qualified immunity defense to the Ninth Circuit. (Not. of Appeal, ECF No. 106). Following their appeal, Defendants filed a Motion to Stay (ECF No. 109) the remainder of the case pending resolution of their appeal, and both parties filed a Stipulation to Consolidate (ECF No. 111) this action with another similar action proceeding in state court. In the pending Report and Recommendation, Judge Ferenbach granted the Motion to Stay but recommended that this Court deny the stipulation to consolidate because the state court action has not been removed to federal court.

Plaintiff filed an Objection to the Report and Recommendation, in which his sole argument is that "[t]he stipulation is the very vehicle to Remove the State Action." (Obj. at 3,

1 ECF No. 113). Plaintiff, however, is incorrect. 28 U.S.C. § 1446 governs the procedure for the
2 removal of civil state court actions to federal court and requires the removing party to file “a
3 notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and
4 containing a short plain statement of the grounds for removal, together with a copy of all process,
5 pleadings, and orders served . . . in such action.” The parties’ proposed stipulation fails to satisfy
6 these requirements. Accordingly, the Court agrees with the recommendation of Judge Ferenbach
7 that the stipulation should be denied.

8 **IT IS THEREFORE ORDERED** that the Report and Recommendation (ECF No. 112)
9 is **ACCEPTED and ADOPTED in full**. The parties proposed Stipulation (ECF No. 111) is
10 **DENIED**.

11 **DATED** this 24th day of September, 2015.

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15 Gloria M. Navarro, Chief Judge
16 United States District Court
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